

United States District Court
Northern District of California

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4 **UNITED STATES DISTRICT COURT**
5 **NORTHERN DISTRICT OF CALIFORNIA**
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8 **UNITED STATES COMMODITY**
9 **FUTURES TRADING COMMISSION,**

10 **Plaintiff,**

11 **vs.**

12 **VICTOR YU, d/b/a VISCO**
13 **INTERNATIONAL, LTD., CURRENCY**
14 **TRADING CLUB and VICTORY FX**
15 **CLUB, and VFRS, LLC,,**

16 **Defendants.**

Case No.: 12-CV-3921 YGR

**ORDER GRANTING RESTRAINING ORDER AND
SETTING HEARING ON PRELIMINARY
INJUNCTION**

17 Having read the Complaint for Injunctive and Other Equitable Relief and Penalties Under
18 the Commodity Exchange Act (“Complaint”) filed by Plaintiff Commodity Futures Trading
19 Commission (“CFTC” or “Commission”), Plaintiff’s Motion for *Ex Parte* Statutory Restraining
20 Order (“Motion”), the Memorandum in Support of Plaintiff’s Motions for *Ex Parte* Statutory
21 Restraining Order and Preliminary Injunction submitted in support of the Motion (“Memorandum”)
22 and the declarations and attachments thereto, and being fully advised in the premises,
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24 **THE COURT FINDS:**

25 1. The Court has jurisdiction over the subject matter of this case. Section 6c of the
26 Commodity Exchange Act (“Act”), as amended by the Food, Conservation, and Energy Act of
27 2008, Pub. L. No. 110-246, Title XIII (the CFTC Reauthorization Act of 2008 (“CRA”)),
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§§ 13101-13204, 122 Stat. 1651 (enacted June 18, 2008), and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank Act”), Pub. L. No. 111-203, Title VII (the Wall Street Transparency and Accountability Act of 2010), §§701-774, 124 Stat. 1376 (enacted July 21, 2010), to be codified at 7 U.S.C. §§ 1 *et seq.*, authorizes this Court to enter an *ex parte* statutory restraining order against Victor Yu d/b/a Visco International Ltd., Currency Trading Club, and Victory FX Club (“Yu”) and VFRS, LLC (“VFRS”) (collectively, “Defendants”).

2. Venue properly lies with this Court pursuant to Section 6c(e) of the Act, 7 U.S.C. § 13a-1(e).

3. It appears that there is good cause to believe Defendants have engaged, are engaging, and/or are about to engage in violations of the Act. Specifically, it appears that Defendants have violated Section 4b(a)(2)(A) and (C) of the Act, as amended, 7 U.S.C. §§ 6b(a)(2)(A), (C), and, in connection with conduct on or after October 18, 2010, it appears that Defendants have violated Commission Regulation (“Regulation”) 5.2(b)(1) and (3), 17 C.F.R. § 5.2(b)(1), (3) (2011), and Yu has violated Section 2(c)(2)(C)(iii)(I)(bb) of the Act, 7 U.S.C. § 2(c)(2)(C)(iii)(I)(bb), and Regulation 5.3(a)(3)(i), 17 C.F.R. § 5.3(a)(3)(i) (2011).

4. It further appears that there is good cause to believe immediate and irreparable harm to the Court’s ability to grant effective final relief to Defendants’ clients in the form of monetary redress will occur from the sale, transfer, assignment, or other disposition by Defendants of their assets or destruction of records unless Defendants are immediately restrained and enjoined by order of this Court. Accordingly, there is good cause to issue this Order.

ORDER

DEFINITIONS

For the purposes of this Order, the following definitions apply:

1 property held outside the United States, except as ordered by the Court. The assets affected by this
2 Paragraph shall include both existing assets and assets acquired after the effective date of this
3 Order, as well as accounts not specifically identified below.

4 **IT IS FURTHER ORDERED** that, pending further order of this Court, any bank, financial
5 or brokerage institution, entity, or person that holds, controls, or maintains custody of any funds,
6 assets, or other property of Defendants, or has held, controlled, or maintained custody of any funds,
7 assets, or other property of Defendants, and who receives notice of this Order by any means,
8 including facsimile, electronic mail, United Parcel Service, or Federal Express, shall:
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10 A. prohibit Defendants and any other person from withdrawing, removing, assigning,
11 transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise
12 disposing of any such assets, except as directed by further order of the Court;

14 B. deny Defendants and all other persons access to any safe deposit box that is:

15 1. titled in the name of or maintained by Defendants, either individually,
16 jointly, or in any other capacity, including safe deposit boxes titled in the name of or
17 maintained by nominees of Defendants; or

19 2. otherwise subject to the control of or access by Defendants; and

20 C. cooperate with all reasonable requests of CFTC relating to implementation of this
21 Order, including producing records related to Defendants' accounts and Defendants' businesses.

22 **II. PROHIBITION OF DESTRUCTION OF BOOKS AND RECORDS**

23 **IT IS ORDERED** that Defendants and all persons or entities who receive notice of this
24 Order by personal service or otherwise, including electronic mail, facsimile, United Parcel Service,
25 or Federal Express, are restrained and enjoined from directly or indirectly destroying, mutilating,
26 erasing, altering, concealing, or disposing of, in any manner, directly or indirectly, any documents
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1 that relate to the business operations or practices, or the business or personal finances, of
2 Defendants.

3 **III. ACCESS TO AND INSPECTION OF BOOKS AND RECORDS**

4 **IT IS ORDERED** that representatives of CFTC be allowed immediately to inspect the
5 books, records, and other documents of Defendants and their agents including, but not limited to,
6 electronically stored data, tape recordings, and computer discs, wherever they may be situated and
7 whether they are in the possession of Defendants or others, and to copy said books, records, and
8 other documents, either on or off the premises where they may be situated.
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10 **IV. SERVICE OF ORDER AND ASSISTANCE OF U.S. MARSHALS SERVICE**

11 **IT IS ORDERED** that the U.S. Marshals Service is directed to assist CFTC with service of
12 process and of this Order upon Defendants, including of the Summons and Complaint and all other
13 papers in this case, as well as assist CFTC with taking control and custody of the assets, records,
14 and business premises of Defendants.
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16 **IT IS FURTHER ORDERED** that copies of this Order may be served upon any financial
17 institution or other entity or person that may have possession, custody, or control of any documents
18 or assets of Defendants, or any other non-party that may be subject to any provision of this Order,
19 by any means including personal service, United Parcel Service, Federal Express, or other
20 commercial overnight service, email, facsimile, Rule 5 of the Federal Rules of Civil Procedure, or
21 Articles 2 through 10 of the Hague Convention, Service Abroad of Judicial and Extrajudicial
22 Documents,. Robert Howell, Jennifer E. Smiley, and Joseph Patrick, all employees of CFTC, are
23 hereby specially appointed to serve process, including of this Order and all other papers in this
24 case.
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Pursuant to Section 6c(b) of the Act, 7 U.S.C. § 13a-1(b), no bond need be posted by the Commission, which is an agency of the United States of America.

VI. SERVICE ON CFTC

IT IS FURTHER ORDERED that Defendants shall serve all pleadings, correspondence, notices required by this Order, and other materials on CFTC by delivering a copy to Robert Howell, Trial Attorney, Division of Enforcement, U.S. Commodity Futures Trading Commission, 525 W. Monroe St., Suite 1100, Chicago, Illinois, 60661 and/or by filing such pleadings or other materials electronically with the Court.


VII. DURATION OF THIS ORDER AND SETTING OF HEARING ON PRELIMINARY INJUNCTION

This Order shall remain in full force and effect for 14 days only, absent an extension of the restraining order for good cause shown, pursuant to FRCP 65(b)(2).

Absent any such order or other continuance, this matter is set for hearing on Plaintiff's Motion for Preliminary Injunction on **August 10, 2012**, at 10:00 a.m., at the U.S. District Court, 1301 Clay Street, Oakland, in a courtroom to be designated.

IT IS SO ORDERED.

Date: July 27, 2012


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE